

Senate Study Bill 1062

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
WORKFORCE DEVELOPMENT BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to workers' compensation including insurance
2 policy coverages and payments, debt collection practices,
3 compensation for temporary disability, calculation of
4 pieceworkers' compensation, liability for successive injuries,
5 and liability for contractors' employees.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1393DP 82
8 av/je/5

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1 1 Section 1. Section 85.1, subsection 6, Code 2007, is
1 2 amended to read as follows:
1 3 6. Employers may with respect to an employee or a
1 4 classification of employees exempt from coverage provided by
1 5 this chapter pursuant to subsection 1, 2, ~~or 3, 4, or 5,~~ other
1 6 than the employee or classification of employees with respect
1 7 to whom a rule of liability or a method of compensation is
1 8 established by the Congress of the United States, assume a
1 9 liability for compensation imposed upon employers by this
1 10 chapter, for the benefit of employees within the coverage of
1 11 this chapter, by the purchase of valid workers' compensation
1 12 insurance ~~that does not specifically including~~ exclude the
1 13 employee or classification of employees. The purchase of and
1 14 acceptance by an employer of valid workers' compensation
1 15 insurance applicable to the employee or classification of
1 16 employees constitutes an assumption by the employer of
1 17 liability without any further act on the part of the employer,
1 18 but only with respect to the employee or classification of
1 19 employees as are within the coverage of the workers'
1 20 compensation insurance contract and only for the time period
1 21 in which the insurance contract is in force. Upon an election
1 22 of such coverage, the employee or classification of employees
1 23 shall accept compensation in the manner provided by this
1 24 chapter and the employer shall be relieved from any other
1 25 liability for recovery of damage, or other compensation for
1 26 injury.

1 27 Sec. 2. Section 85.27, subsection 6, Code 2007, is amended
1 28 to read as follows:

1 29 6. While a contested case proceeding for determination of
1 30 liability for workers' compensation benefits is pending before
1 31 the workers' compensation commissioner relating to an injury
1 32 alleged to have given rise to treatment, no debt collection,
1 33 as defined by section 537.7102, shall be undertaken against an
1 34 employee or the employee's dependents for the collection of
1 35 charges for that treatment rendered an employee by any health
2 1 service provider. If debt collection is undertaken after a
2 2 creditor receives actual notice that a contested case
2 3 proceeding for determination of liability for workers'
2 4 compensation benefits is pending, such debt collection shall
2 5 constitute a prohibited practice under section 537.7103, and
2 6 the employee or the employee's dependents are entitled to the
2 7 remedies provided in section 537.5201. However, the health
2 8 service provider may send one itemized written bill to the
2 9 employee setting forth the amount of the charges in connection
2 10 with the treatment after notification of the contested case
2 11 proceeding.

2 12 Sec. 3. Section 85.32, unnumbered paragraph 1, Code 2007,
2 13 is amended to read as follows:

2 14 Except as to injuries resulting in permanent partial
2 15 disability, compensation shall begin on the fourth day of
2 16 disability after the injury. A day, for the purposes of

~~2 17 determining when compensation begins for injuries not~~
~~2 18 resulting in permanent partial disability, means eight hours~~
~~2 19 of accumulated absence from work due to incapacity to work.~~
2 20 Sec. 4. Section 85.33, subsection 4, Code 2007, is amended
2 21 to read as follows:
2 22 4. If an employee is entitled to temporary partial
2 23 benefits under subsection 3 ~~of this section~~, the employer for
2 24 whom the employee was working at the time of injury shall pay
2 25 to the employee weekly compensation benefits, as provided in
2 26 section 85.32, for and during the period of temporary partial
2 27 disability. The temporary partial benefit shall be sixty-six
2 28 and two-thirds percent of the difference between the
2 29 employee's weekly earnings at the time of injury, computed in
2 30 compliance with section 85.36, and the employee's actual gross
2 31 weekly income from employment during the period of temporary
2 32 partial disability. ~~If at the time of injury an employee is~~
~~2 33 paid on the basis of the output of the employee, with a~~
~~2 34 minimum guarantee pursuant to a written employment agreement,~~
~~2 35 the minimum guarantee shall be used as the employee's weekly~~
~~3 1 earnings at the time of injury.~~ However, the weekly
3 2 compensation benefits shall not exceed the payments to which
3 3 the employee would be entitled under section 85.36 or section
3 4 85.37, or under subsection 1 of this section.
3 5 Sec. 5. Section 85.34, subsection 7, Code 2007, is amended
3 6 by striking the subsection.
3 7 Sec. 6. Section 85.61, subsection 2, Code 2007, is amended
3 8 to read as follows:
3 9 2. a. "Employer" includes and applies to a person, firm,
3 10 association, or corporation, state, county, municipal
3 11 corporation, school corporation, area education agency,
3 12 township as an employer of volunteer fire fighters, volunteer
3 13 emergency rescue technicians, and emergency medical care
3 14 providers only, benefited fire district, and the legal
3 15 representatives of a deceased employer. "Employer" includes
3 16 and applies to a rehabilitation facility approved for
3 17 purchase-of-service contracts or for referrals by the
3 18 department of human services or the department of education.
3 19 b. "Employer" also includes and applies to an eligible
3 20 postsecondary institution as defined in section 261C.3,
3 21 subsection 1, a school corporation, or an accredited nonpublic
3 22 school if a student enrolled in the eligible postsecondary
3 23 institution, school corporation, or accredited nonpublic
3 24 school is providing unpaid services under a school-to-work
3 25 program that includes, but is not limited to, the components
3 26 provided for in section 258.10, subsection 2, paragraphs "a"
3 27 through "f". However, if a student participating in a
3 28 school-to-work program is participating in open enrollment
3 29 under section 282.18, "employer" means the receiving district.
3 30 "Employer" also includes and applies to a community college as
3 31 defined in section 260C.2, if a student enrolled in the
3 32 community college is providing unpaid services under a
3 33 school-to-work program that includes, but is not limited to,
3 34 the components provided for in section 258.10, subsection 2,
3 35 paragraphs "a" through "f", and that is offered by the
4 1 community college pursuant to a contractual agreement with a
4 2 school corporation or accredited nonpublic school to provide
4 3 the program. If a student participating in a school-to-work
4 4 program that includes, but is not limited to, the components
4 5 provided for in section 258.10, subsection 2, paragraphs "a"
4 6 through "f", is paid for services provided under the program,
4 7 "employer" means any entity otherwise defined as an employer
4 8 under this subsection which pays the student for providing
4 9 services under the program.
4 10 c. "Employer" also includes and applies to a person who
4 11 contracts with a contractor for purposes of the person's trade
4 12 or business and the person shall be subject to the
4 13 jurisdiction of the workers' compensation commissioner and to
4 14 all of the provisions of this chapter and chapters 85B, 86,
4 15 and 87, as to all personal injuries sustained by employees of
4 16 the contractor arising out of and in the course of performance
4 17 of the contract with the person, if the contractor has failed
4 18 to insure the contractor's workers' compensation liability or
4 19 to obtain relief from insurance as provided in chapter 87. A
4 20 person who pays benefits pursuant to the operation of this
4 21 paragraph is considered to be the employer of the contractor's
4 22 employees for purposes of the exclusive remedy provisions of
4 23 sections 85.3 and 85.20, and for purposes of the subrogation
4 24 and indemnity provisions of section 85.22. A person who pays
4 25 benefits to the employees of a contractor pursuant to the
4 26 operation of this paragraph is entitled to be indemnified,
4 27 with interest, by the contractor. A person shall not be

4 28 charged a premium for workers' compensation insurance for
4 29 coverage of a contractor's employees if the person holds a
4 30 current certificate of insurance or self-insurance showing
4 31 that the contractor with whom the person has a contract is in
4 32 compliance with chapter 87.

4 33 Sec. 7. Section 87.8, Code 2007, is amended to read as
4 34 follows:
4 35 87.8 INSOLVENCY CLAUSE PROHIBITED.
5 1 An insurer shall pay, when due, all benefits and
5 2 compensation for which the insured is liable under this
5 3 state's workers' compensation laws, regardless of whether the
5 4 insured has reimbursed the insurer for any deductible due
5 5 under the policy of insurance. ~~No~~ A policy of insurance
5 6 issued under this chapter shall not contain any provision
5 7 relieving the insurer from payment if the insured becomes
5 8 insolvent or discharged in bankruptcy during the period that
5 9 the policy is in operation, or the compensation, or any part
5 10 of it, is unpaid.

5 11 Sec. 8. Section 537.7103, Code 2007, is amended by adding
5 12 the following new subsection:
5 13 NEW SUBSECTION. 7. A debt collector shall not collect or
5 14 attempt to collect charges from an employee or an employee's
5 15 dependents for treatment rendered the employee by any health
5 16 service provider, after receiving actual notice that a
5 17 contested case proceeding for determination of liability of
5 18 workers' compensation benefits is pending as provided in
5 19 section 85.27, subsection 6.

5 20 EXPLANATION
5 21 This bill amends various laws relating to workers'
5 22 compensation.
5 23 Code section 85.1, subsection 6, is amended to provide that
5 24 an employer assumes liability for workers' compensation
5 25 coverage of certain domestic, casual, and agricultural
5 26 employees that are exempt from workers' compensation
5 27 requirements, by purchasing coverage that does not
5 28 specifically exclude them. The bill also provides that an
5 29 employer cannot assume liability for workers' compensation
5 30 coverage of police officers and fire fighters who are entitled
5 31 to benefits under Code chapters 410 and 411, and certain
5 32 officers of a corporation other than a family farm corporation
5 33 who voluntarily reject workers' compensation coverage.
5 34 Currently, any employee exempt from workers' compensation
5 35 requirements under this section is covered under a workers'
6 1 compensation insurance policy only if the policy specifically
6 2 includes the employee.

6 3 Code section 85.27, subsection 6, and Code section 537.7103
6 4 are amended to provide that debt collection for charges
6 5 rendered to an employee by a health services provider that is
6 6 undertaken after a creditor receives actual notice that a
6 7 contested case proceeding for determination of liability for
6 8 workers' compensation benefits is pending, constitutes a
6 9 prohibited practice under the Iowa consumer credit code and
6 10 entitles the employee or the employee's dependents to the
6 11 remedies provided by the Iowa consumer credit code. A willful
6 12 violation of this provision is a serious misdemeanor. A
6 13 serious misdemeanor is punishable by confinement for no more
6 14 than one year and a fine of at least \$315 but not more than
6 15 \$1,875.

6 16 Code section 85.32 is amended to provide that a day, for
6 17 the purposes of determining when compensation begins for
6 18 injuries not resulting in permanent partial disability, means
6 19 eight hours of accumulated absence from work due to incapacity
6 20 to work.

6 21 Code section 85.33, subsection 4, is amended to remove a
6 22 provision applicable to employees who work on the basis of
6 23 output or piecework which provides that such an injured
6 24 employee's minimum guarantee of pay instead of actual earnings
6 25 would be used to calculate the employee's weekly compensation
6 26 rate for temporary partial workers' compensation benefits.

6 27 Code section 85.34 is amended by striking subsection 7,
6 28 which deals with the determination of liability when an
6 29 employee suffers successive injuries.

6 30 Code section 85.61 is amended to provide that an "employer"
6 31 for purposes of workers' compensation laws includes a person
6 32 who contracts with a contractor for purposes of the person's
6 33 trade or business. The bill provides that such a person is
6 34 liable for all personal injuries sustained by employees of the
6 35 contractor arising out of and in the performance of the
7 1 contract with the person, if the contractor has failed to
7 2 insure its workers' compensation liability. The bill provides
7 3 that a person who is liable for such workers' compensation

7 4 benefits is considered to be the employer of the contractor's
7 5 employees for purposes of the exclusive remedy provisions and
7 6 subrogation and indemnity provisions. The bill also provides
7 7 that such a person is entitled to be indemnified with interest
7 8 by the contractor for the cost of benefits paid to the
7 9 contractor's employees. The bill provides that a person shall
7 10 not be charged a premium for coverage of a contractor's
7 11 employees if the person holds a current certificate showing
7 12 that the contractor has complied with the insurance or self=
7 13 insurance requirements of Code chapter 87.
7 14 Code section 87.8 is amended to provide that an insurer
7 15 must pay all workers' compensation benefits when due,
7 16 regardless of whether the insured (the employer) has
7 17 reimbursed the insurer for any deductible due under the policy
7 18 of insurance.
7 19 LSB 1393DP 82
7 20 av:rj/je/5.1